

MALI 1628  
PATENT

Remarks

Claims 1-3, 5-7, 10-11, 13-19, and 22-26 are pending in this application. All of the pending claims are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pub. Patent App. No. 20030141210 (Yanke, et al.) or under 35 U.S.C. §103(a) as being obvious over the Yanke application in view of various other references.

Applicants respectfully request reconsideration in view of the fact that the Yanke application is not prior art. See MPEP 706.02(f)(1). Applicant's earliest effective filing date of October 17, 2002 predates the 102(e) date of November 22, 2002 of the Yanke application with respect to the disclosure relied on in the rejections (i.e., the embodiment shown Fig. 13 and described in corresponding parts of the specification). The Yanke application claims priority to provisional application Serial No. 60/332,610 filed November, 23, 2001, but the '610 provisional application does not include Fig. 13 and the corresponding description in the specification. A copy of the '610 provisional application obtained from public PAIR is attached.

Because the '610 provisional application does not provide proper support (applying the standards of 35 U.S.C. §§ 119 and 120) for the relevant subject matter, the Yanke application is not entitled to claim priority to the '610 provisional application with respect to the subject matter and should not be credited with a 102(e) prior art date earlier than November 22, 2002 with respect to the relevant subject matter. See MPEP 706.02(f)(1), Example 2.

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In contrast, applicants' provisional application filed October 17, 2002 (a copy of which is attached) does provide support for the subject matter claimed in this application.

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Conclusion

In view of the above, applicants respectfully request favorable consideration and allowance of claims 1-3, 5-7, 10-11, 13-19, and 22-26. It appears that no fees are owed for filing of this timely response. However, the Commissioner is hereby authorized to charge any fee deficiency in connection with this response to Deposit Account Number 19-1345 in the name of Senniger Powers.

Respectfully submitted,



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